IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL
WRIT PETITION NO. 342 (M/S) OF 2006

M/s. Valm Foams (P) Ltd., having its registered office at 128, Kishanpura, Baghpat Road, Meerut through its Mr. U.K. Shukla. .....Petitioners

Versus

1. U.P. Financial Corporation, 14/88, Civil Lines, Kanpur, through its Managing Director.
2. Regional Manager, U.P. Financial Corporation, 76, Rajpur Road, Dehradun.
3. Smt. Chnadra Kanta Kalra, Director, M/s Cee Kay Garden Products Pvt. Ltd., 10, Dhamawala, Dehradun.
4. Murad Ali S/o Ghasita, R/o Jalalpur Pargana and Tehsil Roorkee.
5. Abdul Hameed S/o Junanuddin R/o Gulab Nagar, Roorkee.

.....Respondents.

05.04.2006

Ms. Menka Tripathi, learned counsel for the petitioner.
Sri Naresh Pant, Learned Counsel for the respondents.

Hon'ble Rajesh Tandon, J.

Heard Ms. Menka Tripathi, Learned Counsel for the petitioner and Sri Naresh Pant, counsel for the respondent.

By the present writ petition, the petitioner has prayed for a writ or certiorari quashing the order dated 22.02.2006 passed by Addl. District Judge/First Fast Track, Hardwar in original Suit No. 57 of 2005.

Briefly stated according to the case of the petitioner, respondent No. 3 as Director of Cee Kay Garden (P) Ltd., had taken loan from UPFC in the year 1995 for starting a business of button mushroom but she could not pay the loan to UPFC. UPFC took over the possession over the property mortgaged with UPFC U/S 29 of the State Financial Corporation Act on 20.11.2002. the respondent No. 3 requested the UPFC for approval of sale in favour of the petitioner and execution of sale deed by UPFC in favour of

the petitioner. The proposal of the respondent No. 3 was accepted by UPFC and one time settlement was approved by the UPFC.

In pursuance of the aforesaid One Time Settlement (OTS), the petitioner has deposited a total sale of Rs. 20.00 lacs with UPFC and the petitioner was given the physical possession.

A suit for redemption of mortgage filed by the respondents no. 4 & 5. Being suit no. 57/05 was pending. Petitioner has filed the application under order 1 Rule 10 of Code of Civil Procedure. The petitioner has stated that he has deposited Rs. 20.00 lacs. Therefore, he filed an application under order 1 Rule 10 of Code of Civil Procedure. However, Addl. District Judge/I.F.T.C., Roorkee, District Hardwar vide his order dated 22.02.2006 has rejected the application of the petitioner without assigning any reasons.

Sri Naresh Pant, Counsel for the respondent has submitted that in pursuance of One Time Settlement the petitioner has deposited the amount. He has handed over the physical possession to the petitioner.

In view of the above, the impugned order dated 22.2.2006 passed by Court below can not be allowed to stand. A writ of certiorari is issued quashing the order dated 22.02.2006. It will be open to the Civil Court to decide the suit expeditiously.

Subject to the aforesaid observations, writ petition is allowed.

(Rajesh Tandon, J)

05.4.2006

Jain